Single Bench

(1)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 95 Of 2005.

PETITIONER :- Shri Bhagwan Shivrinarayan Math Mandir Trust, Through Sarvarakar and Managing Trustee Rajeshshree Mahant Ram Sunder Das, aged about 35 years, Guru Late Shri Rajeshshree Mahant Vaishnav Das, Shivrinarayan Math, Janjgir-Champa (C.G.)

PLAINTIFF

V E R S U S

RESPONDENTS :- 1. Shri Satyanarayan, son of Mahabir Sultania, aged about 50 years, Occupation Businessmen, resident of Shivrinarayan, District Janjgir-Champa(C.G.),

2. Additional District Judge, Janjgir, Champa (Chhattisgarh),

R.R. No. 96/05
Presented by Sri H.B. Agrawal
dated 10.01.05

PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P...95..... **सन्** 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	8.11.2006 Shri H.B. Agrawal, Sr. Advocate with Shri Pankaj Agrawal, counsel for the petitioner. Shri Prateek Sharma, counsel for respondent No. 1. The petitioner/plaintiff has filed the instant petition under Article 227 of the Constitution of India against the order of Annexure P/11 dated 11.10.2004 passed by III Additional District Judge (FTC), Janjgir whereby the application preferred by the petitioner/plaintiff under Order 6 Rule 17 of the Code of Civil Procedure for amending the plaint, has been rejected and also the application for notice of admitting the documents has been rejected on the ground that the same has been filed belatedly without any valid explanation and by the amendment the nature of the suit would be changed. Learned counsel for the petitioner submits that the documents were not traceable as the same were misplaced and therefore, the same could not be filed earlier and the Court below was not justified in rejecting the application on the ground that the same changes the nature of the suit. On the other hand, learned counsel for the respondent submits that there was no pleading in the plaint by the plaintiff that there was any agreement between the parties with respect to tenancy of the suit	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

43

मामला क्रमांक ....W.P.....95...../05 सन् ~~200~~

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

accommodation. The reasons assigned for filing the belated application for amendment and producing documents, have been disbelieved by the Court below.

Even otherwise, the amendment was not necessary for adjudication of the suit as the tenancy of the accommodation has been admitted by the respondent in his return.

I have heard learned counsel for the parties.

Taking into consideration the amendment proposed by the petitioner in the plaint and further considering the reasons assigned for rejecting the applications of the petitioner, this Court is of the view that no interference is called for in the findings of the Court below under Article 227 of the Constitution of India. Accordingly, the petition being without force is hereby dismissed.

Sd/-
Dhirendra Mishra
Judge

P.T.O.

12/11/06